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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/475,719	12/30/1999	W. LEO HOARTY	1436/139	6764

2101 7590 08/11/2005  
BROMBERG & SUNSTEIN LLP  
125 SUMMER STREET  
BOSTON, MA 02110-1618

EXAMINER
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HUYNH, SON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	Application No.	Applicant(s)	
	09/475,719	HOARTY, W. LEO	
	Examiner	Art Unit	
	Son P. Huynh	2611	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 29 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 03 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 7-10.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

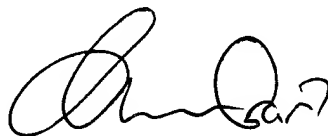
Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues Johnson does not teach video on demand. Johnson does not enable a user to buy a program and have that program sent to the user's television (page 4, paragraph 2). Johnson further does not disclose a method for changing channel (page 4, paragraph 3, lines 8-10).

In response, these features are not recited in the claims 7-10. Furthermore, Johnson discloses a method of changing channel by pressing channel up/ channel down/number on the input device (col. 14, lines 40-65; col. 16, lines 51-67).

Applicant further argues, "Johnson does not teach subscriber interaction to modify the content of the signal of full motion video that gets received by the television input" (page 5, paragraph 3, lines 2-4).

In response, this argument is respectfully traversed. Johnson discloses a terminal receives video transmitted from the headend in multiple channels; the user selects a video to display on the screen (figure 2, col. 5, lines 12-35; col. 13, line 48-col. 14, line 61). An input device, such as keyboard or handheld device, is used to adjust the volume of the video signal display on the screen, to select a channel to view the video program associated with the selected channel, to change the video being displayed on the screen (from one channel to another channel, or from preview screen video to view a entire video). The keyboard or input device is also used for screen design and modification; the user input device further sends command to processor 206 to control operation of the terminal. The processor controls character generation at character generator 204 to provide on screen character appeared as superimposed upon an incoming video signal or displayed in the from of a teletext screen (col. 5, lines 20-62; col. 6, lines 50-66; col. 11, lines 45-64; col. 12, lines 15-25; col. 13, lines 48-65; col. 14, lines 36-60; col. 19, lines 25-31). Thus, the claimed "signal capable of full motion video" is broadly met by the video signal received at the terminal. The claimed feature of "subscriber interaction to modify the content of the signal of full motion video that gets received by the television input" is broadly met by the subscriber, using an input device, to change video content by displaying video content from another channel, or changing from content of preview video to content of full version video, or to display on screen character superimposed upon an incoming video, or to adjust the volume of audio (i.e., mute audio) of the video.

For the reasons given above, rejections on claims 7-10 are maintained as discussed in the Final Office Action mailed on 05/05/2005.



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